

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

EVELYN DUGAY PASCUAL
31770 Alvarado Blvd apt 155
Union City, CA 94587

Registered Nurse License No. 725760

Respondent

Case No. 2012-362

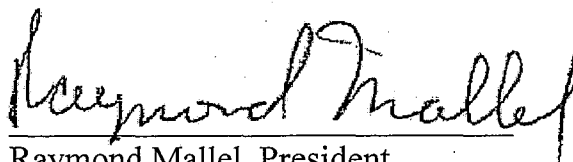
OAH No. 2012010344

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **July 30, 2012.**

IT IS SO ORDERED **July 30, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 **EVELYN DUGAY PASCUAL**
12 31770 Alvarado Blvd., Apt 155
13 Union City, CA 94587

14 **Registered Nurse License No. 725760**

15 Respondent.

Case No. 2012-362

OAH No. 2012010344

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
17 proceeding that the following matters are true:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
20 Board of Registered Nursing. She brought this action solely in her official capacity and is
21 represented in this matter by Kamala D. Harris, Attorney General of the State of California, by
22 Jonathan D. Cooper, Deputy Attorney General.

23 2. Evelyn Dugay Pascual (Respondent) is representing herself in this proceeding and has
24 chosen not to exercise her right to be represented by counsel.

25 3. On or about April 30, 2008, the Board of Registered Nursing issued Registered Nurse
26 License No. 725760 to Evelyn Dugay Pascual (Respondent). The Registered Nurse License was
27 in full force and effect at all times relevant to the charges brought in Accusation No. 2012-362
28 and will expire on December 31, 2013, unless renewed.

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1 license history with the Board of Registered Nursing.

2 2. Respondent shall lose all rights and privileges as a registered nurse in California as of
3 the effective date of the Board's Decision and Order.

4 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
5 issued, her wall certificate on or before the effective date of the Decision and Order.

6 4. If Respondent ever files an application for licensure or a petition for reinstatement in
7 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
8 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
9 effect at the time the petition is filed, and all of the charges and allegations contained in
10 Accusation No. 2012-362 shall be deemed to be true, correct and admitted by Respondent when
11 the Board determines whether to grant or deny the petition.

12 5. If and when Respondent's license is reinstated, she shall pay to the Board costs
13 associated with its investigation and enforcement pursuant to Business and Professions Code
14 section 125.3 in the amount of \$7,925.00. Respondent shall be permitted to pay these costs in a
15 payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the
16 Board from reducing the amount of cost recovery upon reinstatement of the license.

17 6. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation, No. 2012-362 shall be
20 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
21 Issues or any other proceeding seeking to deny or restrict licensure.

22 7. Respondent shall not apply for licensure or petition for reinstatement for two (2)
23 years from the effective date of the Board of Registered Nursing's Decision and Order.

24 ///

25 **ACCEPTANCE**

26 I have carefully read the Stipulated Surrender of License and Order. I understand the
27 stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated
28 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound

1 by the Decision and Order of the Board of Registered Nursing.

2 DATED:

3 June 5, 2012 Evelyn D. Pascual
4 EVELYN DUGAY PASCUAL
5 Respondent

6 ENDORSEMENT

7 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
8 for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

9 Dated:

6/8/12

Respectfully submitted,

10 KAMALA D. HARRIS
11 Attorney General of California
12 FRANK H. PACOE
13 Supervising Deputy Attorney General

14 J. D. Cooper
15 JONATHAN D. COOPER
16 Deputy Attorney General
17 Attorneys for Complainant
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Exhibit A

Accusation No. 2012-362

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
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6 *Attorneys for Complainant*

7 **BEFORE THE**
8 **BOARD OF REGISTERED NURSING**
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2012-362**

12 **EVELYN DUGAY PASCUAL**
13 31770 Alvarado Blvd., Apt 155
Union City, CA 94587

ACCUSATION

14 **Registered Nurse License No. 725760**

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 30, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 725760 to Evelyn Dugay Pascual (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2013, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section
2 references are to the Business and Professions Code unless otherwise indicated.

3 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part,
4 that the Board may discipline any licensee, including a licensee holding a temporary or an
5 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
6 Nursing Practice Act.

7 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
8 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
9 licensee or to render a decision imposing discipline on the license.

10 STATUTORY AND REGULATORY PROVISIONS

11 6. Section 2761 of the Code states, in pertinent part:

12 The board may take disciplinary action against a certified or licensed nurse or deny an
13 application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the following:

15 (1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing
16 functions.

17 ...

18 7. California Code of Regulations, title 16, section 1442, states:

19 As used in Section 2761 of the code, "gross negligence" includes an extreme departure from
20 the standard of care which, under similar circumstances, would have ordinarily been exercised by
21 a competent registered nurse. Such an extreme departure means the repeated failure to provide
22 nursing care as required or failure to provide care or to exercise ordinary precaution in a single
23 situation which the nurse knew, or should have known, could have jeopardized the client's health
24 or life.

25 8. California Code of Regulations, title 16, section 1443, states:

26 As used in Section 2761 of the code, "incompetence" means the lack of possession of or the
27 failure to exercise that degree of learning, skill, care and experience ordinarily possessed and
28 exercised by a competent registered nurse as described in Section 1443.5.

9. California Code of Regulations, title 16, section **1443.5** states:

A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.

COST RECOVERY

10. Section **125.3** of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

1
2 **PATIENT A**

3 11. On or about November 7, 2010, Respondent was working as a registered nurse at the
4 Bay View Nursing and Rehabilitation Center in Alameda, California. Respondent was assigned
5 to provide care for Patient A.¹

6 12. During the course of Respondent's shift, Patient A developed a severe hemorrhage
7 from the dialysis shunt site. Respondent observed that Patient A was covered in blood but
8 made no attempt to ascertain the location of Patient A's bleeding and made no attempt to stop the
9 bleeding. Respondent instead left Patient A's room to call an ambulance. Patient A bled to death.

10 13. Rather than treat Patient A for his severe hemorrhage, Respondent performed a
11 breathing treatment on Patient A.

12 14. Respondent willfully and knowingly made false entries in Patient A's medical chart
13 regarding Respondent's observations and treatments of Patient A during the hours leading up to
14 Patient A's death.

15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence/Incompetence)

17 15. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code in
18 that she acted with gross negligence and/or incompetence in carrying out usual certified or
19 licensed nursing functions, as set forth above in paragraphs 11-14 .

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct)

22 16. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
23 she acted unprofessionally, as set forth above in paragraphs 11-14.

24 **PATIENT B**

25 17. On or about November 7, 2010, Respondent was working as a registered nurse at the
26 Bay View Nursing and Rehabilitation Center in Alameda, California. Respondent was assigned to

27 _____
28 ¹ Patient identity is withheld in order to protect confidentiality.

1 provide care for Patient B.

2 18. During the course of Respondent's shift, Patient B yelled for "help." Respondent
3 failed to adequately respond to Patient B or address Patient B's complaint that he had been the
4 victim of theft. Respondent failed to pass on this information about Patient B to the oncoming
5 shift.

6 **THIRD CAUSE FOR DISCIPLINE**

7 (Incompetence)

8 19. Respondent is subject to disciplinary action under section 2761(a)(1) of the Code in
9 that she acted with incompetence in carrying out usual certified or licensed nursing functions, as
10 set forth above in paragraphs 17-18.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct)

13 20. Respondent is subject to disciplinary action under section 2761(a) of the Code in that
14 she acted unprofessionally, as set forth above in paragraphs 17-18.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 725760, issued to Evelyn
19 Dugay Pascual;

20 2. Ordering Evelyn Dugay Pascual to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: December 14, 2011

25 *for* *Louise R. Bailey*
26 LOUISE R. BAILEY, M.ED., RN
27 Executive Officer
28 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant